

REMARKS

Claims 1-28 were examined and reported in the Office Action. Claims 1-28 are rejected. New claims 29 and 30 are added. Claims 1-30 remain.

Applicant requests reconsideration of the application in view of the following remarks.

I. Drawings

The drawings are objected to under 37 CFR §1.83(a) because blank boxes in figures 5-9 need to be labeled. Corrected replacement sheets are enclosed to overcome this objection. No new matter is added. Approval is respectfully requested.

II. 35 U.S.C. §102(e)

It is asserted in the Office Action that claims 1-2, 6, 7, 9, 10, 14, 15, 18, 19 and 27 are rejected under 35 U.S.C. § 102(e), as being anticipated by U. S. Patent No. 6,970,087 issued to Stis (“Stis”). Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2131,

’[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.’ (Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). ‘The identical invention must be shown in as complete detail as is contained in the ... claim.’ (Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, *i.e.*, identity of terminology is not required. (In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)).

Applicant's claim 1 contains the limitations of

[a] device for detecting a non-authorized object in a zone with protected access, the device comprising: a supporting base (100) designed to only receive a single foot wearing a shoe on its top portion of an individual to be inspected; detector means (250, 260, 800, 810) adapted to detect a target material of the single foot and associated with the support base (100); and position-identifying means (400) on the support base (100) suitable for imposing accurate positioning of the single foot of the individual being inspected relative to the detector means.

In other words, Applicant's claimed invention relates to a device for detecting a non authorized object in a zone with protected access. Applicant's claimed invention is typically directed to the protection of schools, airports or other similar sensitive zones where Applicant's claimed invention is adapted to detect non authorized objects hidden in a shoe.

Stis relates to a device for detecting metal objects and discloses a device including a supporting base designed to receive two feet of an individual; means for applying current to a left foot and to a right foot; electromagnetic coils; means for recording eddy currents; means for comparing signals from the left foot and right foot electromagnetic coils; and means for displaying a warning signal if significant differences in the signals are detected. Stis, however, has a drawback: if the two shoes are identical or symmetric (i.e., if the two shoes have identical or symmetric non-authorized objects). In this case, no difference exists between the signals issued from the left foot electromagnetic coil and the right foot electromagnetic coil.

Stis does not disclose, teach or suggest Applicant's claim 1 limitations of "a supporting base (100) designed to only receive a single foot wearing a shoe on its top portion of an individual to be inspected; detector means (250, 260, 800, 810) adapted to detect a target material of the single foot and associated with the support base (100)." That is, Stis requires that the two feet be placed on the supporting base.

Applicant's new claim 29 asserts that the supporting base includes a block in the form of a step. This structure imposes that the two feet of an individual be placed at two different levels.

Therefore, a single foot is placed on the top surface of the supporting base is analyzed by the detector means. Stis does not disclose, teach or suggest these limitations contained in new claim 29.

Applicant's new claim 30 asserts the device includes two vertical panels incorporating transmitter and receiver detector coils. Stis does not disclose, teach or suggest these limitations contained in new claim 30.

Therefore, since Stis does not disclose, teach or suggest all of Applicant's amended claim 1 limitations, Applicant respectfully asserts that a *prima facie* rejection under 35 U.S.C. § 102(e) has not been adequately set forth relative to Stis. Thus, Applicant's amended claim 1 is not anticipated by Stis. Additionally, the claims that directly or indirectly depend on claim 1, namely claims 2, 6, 7, 9, 10, 14, 15, 18, 19 and 27, are also not anticipated by Stis for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 102(b) rejections for claims 1-2, 6, 7, 9, 10, 14, 15, 18, 19 and 27 are respectfully requested.

III. 35 U.S.C. § 103(a)

A. It is asserted in the Office Action that claims 3-5, 8 and 11 are rejected in the Office Action under 35 U.S.C. § 103(a), as being unpatentable over Stis. Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2142

[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both

be found in the prior art, and not based on applicant's disclosure. (In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

Further, according to MPEP §2143.03, [t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).” “*All words in a claim must be considered* in judging the patentability of that claim against the prior art. (In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970), emphasis added.)

Applicant's claims 3-5, 8 and 11 either directly or indirectly depend on amended claim 1. Applicant has addressed Stis above in section II regarding amended claim 1. As discussed above, Stis does not disclose, teach or suggest Applicant's claim 1 limitations of “a supporting base (100) designed to only receive a single foot wearing a shoe on its top portion of an individual to be inspected; detector means (250, 260, 800, 810) adapted to detect a target material of the single foot and associated with the support base (100).”

Since Stis does not disclose, teach or suggest all the limitations of Applicant's amended claim 1, as listed above, Applicant's amended claim 1 is not obvious over Stis in view of no other prior art since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claims that directly or indirectly depend from amended claim 1, namely claims 3-5, 8 and 11, would also not be obvious over Stis in view of no other prior art for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejections for claims 3-5, 8 and 11 are respectfully requested.

B. It is asserted in the Office Action that claims 12-13 and 16-17 are rejected in the Office Action under 35 U.S.C. § 103(a), as being unpatentable over Stis in view of U. S. Patent No. 4,146,231 issued to Merkle et al ("Merkle"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

Applicant's claims 12-13 and 16-17 either directly or indirectly depend on amended claim 1. Applicant has addressed Stis above in section II regarding amended claim 1.

Merkle discloses a golf swing practice platform and is relied on for disclosing a mechanical abutment and a distance in the range as contained in claims 16-17. Similarly as with Stis, Merkle does not disclose, teach or suggest Applicant's claim 1 limitations of "a supporting base (100) designed to only receive a single foot wearing a shoe on its top portion of an individual to be inspected; detector means (250, 260, 800, 810) adapted to detect a target material of the single foot and associated with the support base (100)."

Since neither Stis, Merkle, and therefore, nor the combination of the two disclose, teach or suggest all the limitations of Applicant's amended claim 1, as listed above, Applicant's amended claim 1 is not obvious over Stis in view of Merkle since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claims that directly or indirectly depend from amended claim 1, namely claims 12-13 and 16-17, would also not be obvious over Stis in view of Merkle for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection for claims 12-13 and 16-17 is respectfully requested.

C. It is asserted in the Office Action that claim 20 is rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Stis in view of U. S. Patent No. 4,866,439 issued to Kraus ("Kraus"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

Applicant's claim 20 directly depends on amended claim 1. Applicant has addressed Stis above in section II regarding amended claim 1.

Kraus discloses an explosives detection system for an aircraft and is relied on for disclosing means for picking up and analyzing vapors or traces of particles. Similarly as with Stis, Kraus does not disclose, teach or suggest Applicant's claim 1 limitations of "a supporting base (100) designed to only receive a single foot wearing a shoe on its top portion of an individual to be inspected; detector means (250, 260, 800, 810) adapted to detect a target material of the single foot and associated with the support base (100)."

Since neither Stis, Kraus, and therefore, nor the combination of the two disclose, teach or suggest all the limitations of Applicant's amended claim 1, as listed above, Applicant's amended claim 1 is not obvious over Stis in view of Kraus since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claim that directly depends from amended claim 1, namely claim 20, would also not be obvious over Stis in view of Kraus for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection for claim 20 is respectfully requested.

D. It is asserted in the Office Action that claims 22, 24-26 and 28 are rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Stis in view of U. S. Patent No. 6,819,241 issued to Turner et al. ("Turner"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

Applicant's claims 22, 24-26 and 28 either directly or indirectly depend on amended claim 1, Applicant has addressed Stis above in section II regarding amended claim 1.

Turner discloses a system for scanning individuals for illicit materials for individuals in wheelchairs and is relied on for disclosing two vertical panels and a vertical panel including means for display. Similarly as with Stis, Turner does not disclose, teach or suggest Applicant's claim 1 limitations of "a supporting base (100) designed to only receive a single foot wearing a shoe on its top portion of an individual to be inspected; detector means (250, 260, 800, 810) adapted to detect a target material of the single foot and associated with the support base (100)."

Since neither Stis, Turner, and therefore, nor the combination of the two disclose, teach or suggest all the limitations of Applicant's amended claim 1, as listed above, Applicant's amended claim 1 is not obvious over Stis in view of turner since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claims that directly or indirectly depend from amended claim 1, namely claims 22, 24-26 and 28, would also not be obvious over Stis in view of Turner for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejections for claims 22, 24-26 and 28 are respectfully requested.

E. It is asserted in the Office Action that claim 21 is rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Stis in view of Kraus and further in view of U. S. Patent No. 6,702,984 issued to Avnery ("Avnery"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

Applicant's claim 21 indirectly depends on amended claim 1. Applicant has addressed Stis in view of Kraus above in section III (C) regarding amended claim 1.

Avnery discloses a decontamination device and is relied on for disclosing suction nozzles. Similarly as with Stis and Kraus, Avnery does not disclose, teach or suggest Applicant's claim 1 limitations of "a supporting base (100) designed to only receive a single foot wearing a shoe on its top portion of an individual to be inspected; detector means (250, 260, 800, 810) adapted to detect a target material of the single foot and associated with the support base (100)."

Since neither Stis, Kraus, Avnery, and therefore, nor the combination of the three disclose, teach or suggest all the limitations of Applicant's amended claim 1, as listed above, Applicant's amended claim 1 is not obvious over Stis in view of Kraus and further in view of Avnery since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claim that indirectly depends from amended claim 1, namely claim 21, would also not be obvious over Stis in view of Kraus and further in view of Avnery for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection for claim 21 is respectfully requested.

F. It is asserted in the Office Action that claim 23 is rejected in the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Stis in view of Turner and further in view of Avnery. Applicant respectfully traverses the aforementioned rejection for the following reasons.

Applicant's claim 23 indirectly depends on amended claim 1. Applicant has addressed Stis in view of Turner above in section III (D) regarding amended claim 1.

As asserted above in section III (E), Avnery discloses a decontamination device and is relied on for disclosing suction nozzles. As mentioned above, neither Stis, Turner nor Avnery disclose, teach or suggest Applicant's claim 1 limitations of "a supporting base (100) designed to only receive a single foot wearing a shoe on its top portion of an individual to be inspected; detector means (250, 260, 800, 810) adapted to detect a target material of the single foot and associated with the support base (100)."

Since neither Stis, Turner, Avnery, and therefore, nor the combination of the three disclose, teach or suggest all the limitations of Applicant's amended claim 1, as listed above, Applicant's amended claim 1 is not obvious over Stis in view of Turner and further in view of Avnery since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claim that indirectly depends from amended claim 1, namely claim 23, would also not be obvious over Stis in view of Turners and further in view of Avnery for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection for claim 23 is respectfully requested.

CONCLUSION

In view of the foregoing, it is submitted that claims 1-30 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

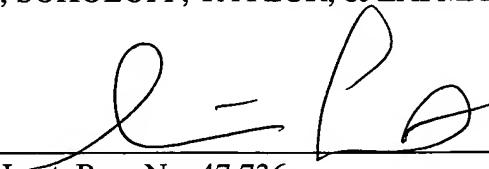
If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

PETITION FOR EXTENSION OF TIME

Per 37 C.F.R. 1.136(a) and in connection with the Office Action mailed on December 13, 2005, Applicant respectfully petitions the Commissioner for a one (1) month extension of time, extending the period for response to April 13, 2006. The Commissioner is hereby authorized to charge payment to Deposit Account No. 02-2666 in the amount of \$60.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(1) small entity. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

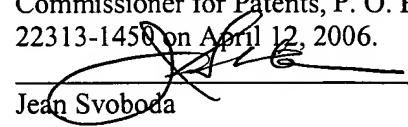
By: 
Steven Laut, Reg. No. 47,736

Dated: April 12, 2006

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450 on April 12, 2006.


Jean Svoboda